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10/064,011	06/04/2002	Timothy G. Deboer	CA920010048US1	7212

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EXAMINER
BROPHY, MATTHEW J

ART UNIT	PAPER NUMBER
2191	

NOTIFICATION DATE	DELIVERY MODE
11/26/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
	10/064,011	DEBOER ET AL.
Office Action Summary	Examiner	Art Unit	
	MATTHEW J. BROPHY	2191	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *11 April 2008*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>26-37</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) <u>26-37</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20081120

DETAILED ACTION

1.   This office action is in response to Request for Continued Examination filed

September 18, 2008.

2.   Claims 26-37 are now pending.

Response to Amendment

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 26-37 are rejected under 35 U.S.C. 102(e) as being anticipated by *Arnaiz*

et al USPN 7,080,371.

Regarding these claims, Arnaiz teaches:

Regarding Claim 26 (New) Arnaiz teaches: A method of concurrently updating

application and server configuration data, said method comprising: <u>receiving from a</u>

<u>user</u> at least one server configuration file comprising server configuration data and

application association data **(e.g. Column 13, Lines 20-23, "Step 1: Make the**

configuration changes on the server database The upgrader, e.g., the database

administrator, uses programs to customize end-user installations for their site, and merge the customer's repository with a new repository.") comprising a list of all applications installed on the server as well as versions of the server to which the applications are associated **(Column 2, Line 62-67, "After the table of contents of the software upgrade kits is installed, it is compared to the locally installed software on a client, with the Software needing to be installed on the client to the client being downloaded to the client. This comparison can be at the startup of the server, the client, or a particular software component.")**; said receiving step being is responsive to creation or modification of a server configuration file **(e.g. Column 8, Lines 58-61, "After defining the upgrade, the upgrader, e.g., the database administrator, then initiates the upgrade from the server database. Client programs at all locations automatically detect and apply the upgrades as needed.")**;

storing in a data repository   the at least one server configuration file and application association data, wherein the application association data comprises a relation between the at least one server configuration file and the applications installed on the server; wherein the repository comprises multiple versions of server configuration data required to run the applications on a plurality of servers and platforms; **(e.g. Column 7, Lines 35-52, "Version Method. A specification of how to identify the current version of installed software component on a machine. For example, read the Windows registry to get the currently installed version of Microsoft Word on the local machine. "Compiled" component information. Information about the**

previously released version of the software component. For example Siebel

Remote stores exactly two versions of software components. The user can view

and manipulate the current version. Siebel Remote stores the previously released

version in a LONG column in the software component table (i.e. S_UPG_COMP).

The upgrader, e.g., the database administrator, uses the Component screen to

copy the current version into the "compiled" LONG column. Schema. The schema

is the database schema, also referred to as a meta-database. This includes the

database tables, indexes, views, seed data and repository data that must be

installed in the database to run. Client. The executables, dlls, reports, help files

needed to run the client. CDF. The definition of a customer's configuration for the

client. Server. The executables, dlls and other files needed to run the server.

Upgrade wizard. The standalone executable that applies upgrade kits on

machine.")

receiving a request to select a particular version of one or more server

configuration files stored within the data repository, the request comprising data

associated with an application which is to be transferred to at least one server on at

least one platform (Column 8, Line 63 – Column 9, Line 6, "After the upgrade kit is

defined, it is possible to distribute the upgrade kit definitions associated files to

mobile and regional databases. In this case mobile users can navigate to the

Upgrade Kit screen and request that the database management system download

the upgrade kit archive file in the next synchronization session. This lets mobile

users download large upgrade kit archive files long before the upgrade kit needs

to be applied to the local machine. For example, the mobile user may be visiting
headquarters and can download the upgrade kit archive file in much less time
over the LAN than over a modem.");

retrieving a latest version of the at least one server configuration file associated
with the application to be transferred **(Column 8, Line 63 – Column 9, Line 6, "After
the upgrade kit is defined, it is possible to distribute the upgrade kit definitions
associated files to mobile and regional databases. In this case mobile users can
navigate to the Upgrade Kit screen and request that the database management
system download the upgrade kit archive file in the next synchronization session.
This lets mobile users download large upgrade kit archive files long before the
upgrade kit needs to be applied to the local machine. For example, the mobile
user may be visiting headquarters and can download the upgrade kit archive file
in much less time over the LAN than over a modem.");** bundling the application and
the latest version of the at least one server configuration file into a single package
comprising data to configure the at least one server for running said application on the
at least one platform **(Column 8, Line 6-8, "Each upgrade kit must contain all the
files and commands needed to install the software components. For example, an
upgrade kit can be used to install Microsoft Word 7.0.2 on all clients. This
upgrade kit must contain all the files (e.g. executables, sample files, templates,
etc.)" and e.g. Column 13, Lines 20-23, "Step 1: Make the configuration changes
on the server database The upgrader, e.g., the database administrator, uses
programs to customize end-user installations for their site, and merge the**

customer's repository with a new repository."); transferring to the at least one server the single package **(Column 8, Line 63 – Column 9, Line 6, "After the upgrade kit is defined, it is possible to distribute the upgrade kit definitions associated files to mobile and regional databases. In this case mobile users can navigate to the Upgrade Kit screen and request that the database management system download the upgrade kit archive file in the next synchronization session. This lets mobile users download large upgrade kit archive files long before the upgrade kit needs to be applied to the local machine. For example, the mobile user may be visiting headquarters and can download the upgrade kit archive file in much less time over the LAN than over a modem.")**; and configuring the at least one server with the server configuration data from the latest version of the server configuration file **(e.g. Column 13, Lines 20-23, "Step 1: Make the configuration changes on the server database The upgrader, e.g., the database administrator, uses programs to customize end-user installations for their site, and merge the customer's repository with a new repository.")**.

    Regarding Claims 27 and 34 (New) Arnaiz teaches: The method of claim 26 further comprising providing server configuration metadata for storing in the data repository, the metadata comprising a linkage between the at least one server configuration file and corresponding application data **(e.g. Column 14, Line 63 to Column 15, Line 20, The Software Component applet lets the upgrader, e.g., the database administrator, enter the attributes of a software component. It can have**

one or more of the following fields: Name (required). The name of the software
component. Comments (optional). The description of the software component.
Minimum version (optional). The minimum version that must be installed on a
machine to use this software component. If NULL, then the software component
does not have a minimum version. Maximum version (optional). The maximum
version that must be installed on a machine to use the software component. If
NULL, then the software component does not have a maximum version. The
applet verifies that the minimum version is less than or equal to the maximum
version. Locate method (optional). The method to use to get the install location of
the software component. This is a picklist. Location Info (optional). Additional
information for the locate method. Version method (optional). Method to get the
currently installed version of software component. This is a picklist. Version Info
(optional). Additional information for the version method.").

Regarding Claims 28 and 35 (New) Arnaiz teaches: The method of claim 27
wherein the server configuration metadata is provided in the server configuration file
(Col. 16, Line 6-11, "Upgrade kit archive file (optional). The attributes for the
attached upgrade kit archive file. These are the attributes used by the file
attachment business component and frames. Mobile users can navigate to this
applet and request that Remote download the upgrade kit archive in the next
synchronization session.").

Regarding Claims 29 and 36 (New) Arnaiz teaches: The method of claim 26
further comprising providing application metadata for storing in the data repository, the
application data comprising at least one selected from a group consisting of: data
describing a particular file or component, version data, timestamp data, and indicator
data indicating whether a piece of data has been checked out and by whom **(e.g. Col.
15, Lines 4-9, "Maximum version (optional). The maximum version that must be
installed on a machine to use the software component.").**

Regarding Claim 30, 33 and 37 (New) Arnaiz teaches: The method of claim 26
further comprising a step of providing the at least one server configuration file with a first
server configuration file adapted to configure a first server and further comprising a step
of providing another of the at least one server configuration file with a second server
configuration file adapted to configure a second server **(figures 1-3, column 5, lines
illustrates one set of test and distribution procedures for customers. As shown
in FIG. 3, upgrade CD's or diskettes (307) are created in a master repository (305)
and shipped to a test database server (303) for distribution to test users,
including server test users (313), connected test users (311), and mobile test
users (315). The test users (311, 313, and 315) upgrade their test environments,
and the upgraded version of the software for testing. The customers (311, 313,
315) test the software. If the test is satisfactory, the newly upgraded version of
the software is distributed to production users (4121, 413, 415))**.

Regarding Claim 31 (New) Arnaiz teaches: The method of claim 26 further

comprising a step of providing the at least one server configuration file with a first server

configuration file adapted to configure a first server for execution on a first computer

system platform and further comprising a step of providing another of the at least one

server configuration file with a second server configuration file adapted to configure said

first server for execution on a second computer system platform **(column 4,lines 40-55,**

FIG. 2 illustrates initiation and distribution of upgrades. In the process shown in

FIG. 2 the administrator updates the required versions for a software item. This

causes the database server, when started up, this causes the client to compare

the required versions of the software with the locally installed versions for each

software item. If an upgrade is required the client retrieves the upgrade kit

archive file from the file server and invokes the upgrade wizard to apply the

upgrade locally. Also, shown in FIG. 2 is upgrading of mobile users. In the case

of mobile users an application server routes new required versions to mobile and

regional users. After a docking session, the docking client compares the

required versions to locally installed versions of the software. If an upgrade is

required, the docking client retrieves the upgrade kit archive file from the file

server and invokes the upgrade wizard to apply the upgrade the local machine).

Regarding Claim 32: A computer storage medium storing data and instructions,

said data and instructions adapting the computer system to: at least one server

configuration file comprising server configuration data and application association data

comprising a list of all applications installed on the server as well as versions of the

server to which the applications are associated **(e.g. Column 13, Lines 20-23, "Step 1:**

Make the configuration changes on the server database The upgrader, e.g., the

database administrator, uses programs to customize end-user installations for

their site, and merge the customer's repository with a new repository." And

Column 2, Line 62-67, "After the table of contents of the software upgrade kits is

installed, it is compared to the locally installed software on a client, with the

Software needing to be installed on the client to the client being downloaded to

the client. This comparison can be at the startup of the server, the client, or a

particular software component."); wherein the providing step is responsive to

creation or modification of a server configuration file **(e.g. Column 8, Lines 58-61,**

"After defining the upgrade, the upgrader, e.g., the database administrator, then

initiates the upgrade from the server database. Client programs at all locations

automatically detect and apply the upgrades as needed.");

store in a data repository   the at least one server configuration file and

application association data, wherein the application association data comprises a

relation between the at least one server configuration file and the applications installed

on the server; wherein the repository   comprises multiple versions of server

configuration data required to run the applications on a plurality of servers and

platforms; **e.g. Column 7, Lines 35-52, "Version Method. A specification of how to**

identify the current version of installed software component on a machine. For

example, read the Windows registry to get the currently installed version of

**Microsoft Word on the local machine. "Compiled" component information.
Information about the previously released version of the software component. For
example Siebel Remote stores exactly two versions of software components. The
user can view and manipulate the current version. Siebel Remote stores the
previously released version in a LONG column in the software component table
(i.e. S_UPG_COMP). The upgrader, e.g., the database administrator, uses the
Component screen to copy the current version into the "compiled" LONG
column. Schema. The schema is the database schema, also referred to as a meta-
database. This includes the database tables, indexes, views, seed data and
repository data that must be installed in the database to run. Client. The
executables, dlls, reports, help files needed to run the client. CDF. The definition
of a customer's configuration for the client. Server. The executables, dlls and
other files needed to run the server. Upgrade wizard. The standalone executable
that applies upgrade kits on machine."):**

receive a request to select <u>a particular version</u> one or more server configuration files

stored within the data repository, the request comprising data associated with an

application which is to be transferred to at least one server on at least one platform

**(Column 8, Line 63 – Column 9, Line 6, "After the upgrade kit is defined, it is
possible to distribute the upgrade kit definitions associated files to mobile and
regional databases. In this case mobile users can navigate to the Upgrade Kit
screen and request that the database management system download the upgrade
kit archive file in the next synchronization session. This lets mobile users**

download large upgrade kit archive files long before the upgrade kit needs to be applied to the local machine. For example, the mobile user may be visiting headquarters and can download the upgrade kit archive file in much less time over the LAN than over a modem.");

retrieve the particular version of the at least one server configuration file associated with the application to be transferred **(Column 8, Line 63 – Column 9, Line 6, "After the upgrade kit is defined, it is possible to distribute the upgrade kit definitions associated files to mobile and regional databases. In this case mobile users can navigate to the Upgrade Kit screen and request that the database management system download the upgrade kit archive file in the next synchronization session. This lets mobile users download large upgrade kit archive files long before the upgrade kit needs to be applied to the local machine. For example, the mobile user may be visiting headquarters and can download the upgrade kit archive file in much less time over the LAN than over a modem.");**

bundle the application and the particular version of the at least one server configuration file into a single package comprising data to configure the at least one server for running said application on the at least one platform **(Column 8, Line 6-8, "Each upgrade kit must contain all the files and commands needed to install the software components. For example, an upgrade kit can be used to install Microsoft Word 7.0.2 on all clients. This upgrade kit must contain all the files (e.g. executables, sample files, templates, etc.)" and e.g. Column 13, Lines 20-23, "Step 1: Make the configuration changes on the server database The upgrader,**

e.g., the database administrator, uses programs to customize end-user installations for their site, and merge the customer's repository with a new repository."); transfer to the at least one server the single package **(Column 8, Line 63 – Column 9, Line 6, "After the upgrade kit is defined, it is possible to distribute the upgrade kit definitions associated files to mobile and regional databases. In this case mobile users can navigate to the Upgrade Kit screen and request that the database management system download the upgrade kit archive file in the next synchronization session. This lets mobile users download large upgrade kit archive files long before the upgrade kit needs to be applied to the local machine. For example, the mobile user may be visiting headquarters and can download the upgrade kit archive file in much less time over the LAN than over a modem.");** and configure the at least one server with the server configuration data from the latest version of the server configuration file **(e.g. Column 13, Lines 20-23, "Step 1: Make the configuration changes on the server database The upgrader, e.g., the database administrator, uses programs to customize end-user installations for their site, and merge the customer's repository with a new repository.").**

Response to Arguments

3.   Applicant's arguments filed April 11, 2008 have been fully considered but they are not persuasive.

In remarks, Applicant Argues:

The current invention provides a server versioning tool for versioning each server configuration file associated with an application. The versioning tool stores the multiple versions of configuration files, along with the application associated data. Given a specific request for a particular version of a server configuration file, the server versioning tool is able to bundle together the requested server configuration file along with the associated application and transmit it to the recipient for running the application. Since the server versioning tool can be used for testing purposes, the request may be for a former version, not necessarily a most recent version of the configuration file. This is in contrast to Arnaiz which deals with upgrading database software to the latest version of that software.

Examiner's Response:

4.   In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., requesting former config files is argued, but the claim just requires 'particular' version, which examiner maintains is anticipated by the config files of Arniaz) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Arnaiz also differs in that Arnaiz does not "pre-associate" the applications with versions of the config files needed to run them. Arnaiz must first transfer the database software upgrade, which the Examiner finds analogous to the instant "application" and then determine if the customer has all of the necessary files to run that upgrade. Arnaiz is limited to database upgrades and database configurations (schemas). Arnaiz prepares an upgrade kit to install a database software upgrade on a client. Arnaiz's upgrade kit contains the database software to be installed, except that it does not contain a server configuration file that has already been determined to be associated with the application to be installed. Arnaiz teaches away from bundling the application and the associated configuration file because Arnaiz must handle the application and any configuration file in separate downloads. Arnaiz first installs an "upgrade wizard" as part of the upgrade kit. Before installing the database software, the upgrade wizard checks to be sure the versions are up-to-date. If not, the upgrade wizard enables the client to retrieve the latest version and any database schema files that are necessary to complete the software upgrade... If Arnaiz had anticipated the claimed invention, Arnaiz's "upgrade wizard" would have been able to reach into its upgrade kit and pull out all the necessary config files for running any requested version, not just an upgrade version. However, Arnaiz's wizard is not able to perform this feat because Arnaiz is concerned only with database upgrades, not server versioning as in the instant application; therefore Arnaiz had no need for bundling a particular version of a server config file with an application.

Examiners response:

Examiner first reminds the applicant:

"A reference is no less anticipatory if, after disclosing the invention, the reference then disparages it. **The question whether a reference "teaches away" from the invention is inapplicable to an anticipation analysis.** Celeritas Technologies Ltd. v. Rockwell International Corp., 150 F.3d 1354, 1361, 47 USPQ2d 1516, 1522-23 (Fed. Cir. 1998) (The prior art was held to anticipate the claims even though it taught away from the claimed invention. "The fact that a modem with a single carrier data signal is shown to be less than optimal does not vitiate the fact that it is disclosed."). >See Upsher-Smith Labs. v. Pamlab, LLC, 412 F.3d 1319, 1323, 75 USPQ2d 1213, 1215 (Fed. Cir. 2005)(claimed composition that expressly excluded an ingredient held anticipated by reference composition that optionally included that same ingredient);< see also Atlas Powder Co. v. IRECO, Inc., 190 F.3d 1342, 1349, 51 USPQ2d 1943, 1948 (Fed. Cir. 1999) (Claimed composition was anticipated by prior art reference that inherently met claim limitation of "sufficient aeration" even though reference taught away from air entrapment or purposeful aeration.)." **MPEP §2131.04**

Further, Examiner maintains that the server configuration file of the applicants claim is anticipated by Arnaiz where Arnaiz's CDF defines the definition of the configuration and pre-associates it with the executables and dlls in an upgrade kit (Col. 7).

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. BROPHY whose telephone number is 571-270-1642. The examiner can normally be reached on Monday-Thursday 8:00AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJB

11/20/2008
/Wei Y Zhen/
Supervisory Patent Examiner, Art Unit 2191